

INDIANA SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED

Background Checks

Policy 0-24

PURPOSE

To set minimum standards governing background checks for employment, or performing services under contract or through volunteer arrangements with the Indiana School for the Blind and Visually Impaired.

SCOPE

This policy applies to all employees, and applicants for employment, contract or volunteer work for the Indiana School for the Blind and Visually Impaired.

POLICY STATEMENT

The Indiana School for the Blind and Visually Impaired is committed to providing the public with qualified staff who possess good character and standards. This policy will provide basic safeguards to meet that commitment and assist in maintaining a safe work environment for employees, students, and School constituencies.

DEFINITIONS

Adverse Action: An employment action taken based on the content of a consumer report that is not favorable to an applicant.

Arrest: The taking of a person into custody, that s/he may be held to answer for a criminal charge. Arrest(s) noted on criminal history checks may be considered only if the charge(s) are still pending at the time of the employment decision.

Background Checks refers to the following checks: Employment verification, Educational verification, License verification, Tax payment check, Reference check, Past employment check, Criminal history checks, Sex Offender Registry check, Court records check, Motor vehicle check, Credit history check, National criminal history database check, and/or use of the federal eVerify program.

Consumer Report: A report compiled by, or received by the employer from, a consumer reporting agency. A consumer reporting agency is any entity that collects or disseminates information about consumers to be used for credit evaluation and other purposes, including employment.

Conviction: A judgment on a verdict or a plea of guilty or *nolo contendere*, and/or a finding of guilt substantiated by the evidence which results in the payment of fines, forfeiture of collateral

or bond, restitution, deferred adjudication or sentencing, probation, confinement, suspended sentence, pre-trial diversion agreement, or any other penalty imposed by a court of law or agreed upon by the accused for a crime, i.e., a felony or misdemeanor for which a person might be imprisoned.

Court records check: Checking civil and criminal court records in jurisdictions where the applicant has lived, worked, or attended school to determine any criminal history or civil judgments.

Credit history check: Checking for information about credit cards, loans and other debts, and payment history. The existence of bankruptcy or garnishment proceedings cannot form the basis of an adverse action.

Educational verification: Telephone contact or written verification to ensure that the applicant possesses all educational credentials on application/resume.

Employment verification: Ensuring that the applicant actually worked,

1. all positions listed on the application/resume that qualify the individual for the position sought; and
2. all substantive employment during a period of at least five (5) years immediately preceding application.

Verification should include dates of employment, reasons for leaving, and an explanation for any periods of unemployment.

eVerify program: The electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s. 403(a), as amended, operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly-hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603).

Expanded Child Protection Index Check (for Indiana School Personnel): (1) an inquiry with the department of child services as to whether an individual has been the subject of a substantiated report of child abuse or neglect and is listed in the child protection index established under IC 31-33-26-2; (2) an inquiry with the child welfare agency of each state in which the individual has resided since the individual became eighteen (18) years of age as to whether there are any substantiated reports that the individual has committed child abuse or neglect; and (3) for a certificated employee, an inquiry with the department of education or other entity that may issue a license to teach of each state in which the individual has resided since the individual became eighteen (18) years of age as to whether the individual has ever had a teaching license suspended or revoked.

Expanded Criminal History Check: A criminal history background check of an individual that includes: (1) a background check by a consumer reporting agency regulated under 15 U.S.C. 1681 et seq. that does not include a written, oral, or other communication of information concerning the individual's credit score, creditworthiness, credit standing, or credit capacity, but

does include a: (A) verification of the applicant's identity; (B) search of all names associated with the applicant; (C) search of the records maintained by all counties in Indiana in which the individual who is the subject of the background check resided; (D) search of the records maintained by all counties or similar governmental units in another state, if the individual who is the subject of the background check resided in another state; (E) search of United States district court records from the districts in which the applicant resided; (F) check of sex offender registries in every state or the national sex offender registry maintained by the United States Department of Justice; and (G) multistate criminal data base search; or (2) a: (A) national criminal history background check (as defined in IC 10-13-3-12); and (B) check of: (i) sex offender registries in all fifty (50) states; or (ii) the national sex offender registry maintained by the United States Department of Justice.

Fingerprint check: A nationwide criminal history database maintained by the Federal Bureau of Investigation, access to which is limited by federal and state statutes. Under current law, applicants may obtain information on themselves from this data source. Employees, contractors, or volunteers who have contact with children are also eligible for these nationwide checks. See IC 10-13-3.

License verification: Confirmation that the applicant possesses all the licenses on application/resume or otherwise necessary for position and determining the disposition of any proceedings against the license.

Motor vehicle check: BMV makes driving record information available online through www.in.gov to determine an applicant's driving record and status.

NEFR: The code used in PeopleSoft data entry meaning a person is Not Eligible For Rehire. This code can only be used when the person is disqualified from employment for reason(s) specified in the law.

Nexus: The following factors may be considered in determining whether pending charges or convictions have a nexus to the employee's duties and responsibilities:

- the facts and circumstances, including the nature and seriousness of the offense;
- the number of offenses for which the individual was convicted;
- sentence imposed;
- other convictions/infractions;
- specific proscription in Indiana Code;
- effect on any license which is requisite to performance of the job;
- risk of recidivism, reasonable inferences about problems with self-control, propensity for violence, honesty, or dependability;
- erosion of confidence in or impugning the reputation of the individual or agency;
- objections the victim/citizen may have to being the perpetrator's employer;
- the offender's age at the time of conviction and age when released from incarceration;
- the time elapsed since the offense occurred, conviction and/or completion of the sentence;
- the nature of the job held or sought;
- the length and consistency of employment history before and after the offense;

- whether the offender performed the same type of work, post-conviction, with no known misconduct;
- rehabilitation efforts undertaken (e.g., education & training);
- employment or character references; and
- any other information regarding fitness for a particular job.

Reference check: Contacting the references provided by the applicant.

Past employment check: Interviews with the applicant's past supervisors.

Person with a conditional offer of employment: An individual who is tentatively selected for a position. The term includes current employees who are (1) transferring, demoting, or promoting from one classification to another within the same state agency and/or (2) transferring, demoting, or promoting from one position to another in different state agencies.

Sex Offender Registry: Pursuant to IC 36-2-13-5.5 the Indiana Sex and Violent Offender Directory database, which is accessible on the Internet through www.in.gov, contains information on persons convicted of certain sex and violent crimes. See also IC 11-8-8 et seq.

School: Refers to the Indiana School for the Blind and Visually Impaired.

State criminal history check: The most basic check on arrest(s) or criminal conviction(s) is the state criminal history check provided by the Indiana State Police. This check is limited to Indiana criminal history and can only discover the data that has been provided by local law enforcement agencies. It is available online. For especially sensitive positions, agencies may check court records in every jurisdiction where the applicant has lived, worked, or attended school. The Indiana School for the Blind and Visually Impaired may also require applicants to secure and provide their state criminal history checks. Arrest(s) may be considered only if the charge(s) are still pending.

Tax payment check: The Indiana Department of Revenue will provide information to state agencies as to whether an applicant is current in payment of state taxes.

RESPONSIBILITIES

Persons with conditional offers of employment or entering into contractual or volunteer arrangements with the School are responsible for:

- submitting an accurate, complete disclosure and release of information forms to the appropriate authority in a timely manner, and
- providing appropriate documentation and information necessary to complete any required background checks.

Hiring Managers are responsible for:

- submitting to the appropriate authority information about the position being filled so the appropriate background checks can be performed;

School HR Staff are responsible for:

- ensuring that PeopleSoft® records are accurate and the code NEFR is used only for reasons provided by law (e.g. IC 4-15-2.2-30);
- coordinating with SPD to complete licensure, education, reference, and employment verifications for all new School employees;
- ensuring fingerprint checks for appropriate positions are conducted for all new School employees;
- ensuring expanded criminal history and expanded child protection index checks are completed per the procedures below;
- coordinating with SPD in the use of the eVerify program to verify the work eligibility status of all employees hired after June 30, 2011;
- providing adverse action notices in appropriate situations within required time limits; and
- maintaining records of background check results in a secure and appropriate manner and in accordance with applicable records retention schedule(s).

School Volunteer Coordinator and Approved Vendors hiring contractual workers to support the School are responsible for:

- completing the appropriate types of background checks for all new volunteers and contractors;
- ensuring expanded criminal history and expanded child protection index checks are completed as detailed in the procedure below; and
- Volunteer Coordinator shall track all volunteer assignments to ensure appropriate types of background checks are conducted within the deadlines provided below.

PROCEDURES

1. All persons accepting conditional offers of employment or offering services under a contract shall be subject to the following background checks:
 - All work experience listed on application/resume that qualify the individual for the position sought,
 - All substantive employment during a period of at least five (5) years immediately preceding the date of application,
 - All academic diplomas and degrees,
 - Any required licensure,
 - Expanded Criminal History Check,
 - Expanded Child Protection Index Check, and
 - Reference Checks, including contacting most recent employer.
2. Individuals providing volunteer services shall be subject to the following background checks:
 - a. Anticipate volunteering only one (1) to two (2) times during a six (6) month period: state criminal history and sex offender registry checks.
 - b. Anticipate volunteering three (3) or more times during a six (6) month period: expanded criminal history and expanded child protection index checks.

3. All persons accepting conditional offers of employment for positions that authorize disbursements or have access to personal, private information shall be subject to additional background checks commensurate with their responsibilities including credit history checks.
4. Completion of the information request for all states of residence and employment since the person was 18 years of age is required upon request of HR staff so the background checks can be accurately performed. Non-compliance or failure to honestly complete written disclosures by a School employee, volunteer or contractor may result in dismissal from employment or termination of contract or volunteer arrangement. Non-compliance or failure to honestly complete written disclosures by an applicant may result in exclusion from hire and/or previous offers of employment may be rescinded.
5. All persons employed or performing services for the School under contract or volunteer arrangement as of July 1, 2017, shall be subject to an expanded child protection index check during the 2017-18 school year.
6. All persons employed or performing services for the School under contract or volunteer arrangement as of July 1, 2017 and who began said roles prior to December 31, 2012 shall be subject to an expanded criminal history check during the 2017-2018 school year and every five (5) years thereafter.
7. All persons employed or performing services for the School under contract or volunteer arrangement as of July 1, 2017 and who began said roles on or after December 31, 2012 shall be subject to an expanded criminal history check approximately five (5) years from the date they began employment, contractual or volunteer services and every five (5) years thereafter.
8. Expanded criminal history checks must be completed on the persons listed below within the specified time period.
 1. New School employees – within thirty (30) days of hire.
 2. New contractors – within thirty (30) days of commencement of services.
 3. New volunteers who anticipate volunteering three (3) or more times within six months – within thirty (30) days of commencement of volunteer activities.
9. Expanded child protection index checks must be completed on the parties listed below within the specified time period.
 1. New School employees – within sixty (60) days of hire.
 2. New contractors – within sixty (60) days of commencement of services.
 3. New volunteers who anticipate volunteering three (3) or more times within six (6) months – within sixty (60) days of commencement of volunteer activities.
10. Every five (5) years the following persons will be subject to updated expanded criminal history and expanded child protection index checks. These individuals may not be required to obtain expanded criminal history or expanded child protection index checks more than once in five (5) years, unless the School has reason to believe that the applicant, employee, contractor, or volunteer (1) is the subject of a substantiated report of child abuse or neglect; or (2) has been charged with or convicted of a crime listed in IC 20-28-5-8 (c). Each individual is responsible for all costs associated with obtaining these checks unless the School or vendor agrees to pay the costs.
 1. Current School employees.
 2. Current contractors.

3. Current volunteers who volunteer three (3) or more times within six (6) months during any given school year.
11. The School is prohibited from hiring a person who has been convicted of an offense requiring license revocation as detailed in IC 20-28-5-8(c), unless the conviction has been reversed, vacated, or set aside on appeal.
12. The School is prohibited from hiring a person who has been convicted of an offense listed in IC 4-13-2.14.7.

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